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December 2, 2011

VIA ECF

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Dupree, 10-cr-627 (S-2)(KAM)*

Dear Judge Matsumoto:

I write to dispute the government's filing regarding a purported agreement between the parties concerning the testimony of Mr. Dupree's expert witness. *See* ECF No. 460. Following the hearing on December 1, Mr. McGovern approached me and my colleagues on the street as we were about to hail a cab. We briefly discussed our purpose for having Mr. Lendez testify according to paragraphs 10 and 14 of his expert disclosure and the government's opposition to that testimony.

At the end of the conversation, it was my understanding that Mr. McGovern was going to send us something memorializing our conversation and that we would consider any document he sent to us. Indeed, the Court suggested such a procedure, noting that if the an agreement could not be reached that McGovern would be required to serve his objection on paragraphs ten and fourteen on the court and defense counsel. *See* Transcript of December 1, 2011, hearing at 33.

At no point did we agree that Mr. McGovern would file anything with the Court purporting to represent an agreement regarding Mr. Lendez' testimony. As this Court and all parties are aware, Mr. Dupree's counsel are responding to motions, attempting to confer with Mr. Dupree at MDC on newly produced evidence and are currently en route to Washington, D.C. Given this, Mr. Dupree's counsel has been in touch with the government and will continue to communicate with Mr. McGovern in an effort to reach an agreement regarding paragraphs 10 and 14 of Mr. Lendez' testimony. To be clear there is no agreement as to paragraphs 10 and 14 of Mr. Lendez' expert disclosure.

Sincerely,

/s/
Roscoe C. Howard, Jr.

cc: All ECF Participants